

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO.151 OF 1999 TO FIRST APPEAL NO.167 OF 1999

WITH

FIRST APPEAL NO.1268 OF 1999 TO 1284 OF 1999

WITH

FIRST APPEAL NO.1059 OF 1999 TO 1068 OF 1999

with

First Appeals Nos.6541 of 1998 to 6557 of 1998

and

First Appeals Nos. 6560 of 1998 to 6576 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SPL.LAQ OFFICER

Versus

NARANBHAI MAGANBHAI PATEL

Appearance:

FIRST APPEALS NOS.151 TO 167 OF 1999

with FA Nos.1268/99 to 1284/99

with FA Nos.1059/99 to 1068/99

Mr.A.D. Oza, GP, with Mr.S.S. Patel AGP for the

appellants

Mr.A.J. Patel with Mr. Anant S. Dave for the respondents

First Appeals Nos.6541 of 1998 to 6557 of 1998 and
6560 of 1998 to 6576 of 1998

Mr.B.S. Patel for the appellants

Mr.A.D. Oza,, GP, with Mr.S.S. Patel, AGP, for the respondents

CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE D.P.BUCH

Date of decision: ____/04/2000

COMMON C.A.V. JUDGMENT (Per: Kadri, J.)

1. First Appeals Nos.151 of 1999 to 167 of 1999 are filed by the Special Land Acquisition Officer, Unit No.1, Narmada Project, under Section 54 of the Land Acquisition Act, 1894 ('Act' for short), read with Section 96 of the Code of Civil Procedure, 1908, challenging common judgment and award dated April 30, 1998, rendered by the learned Joint District Judge, Panchmahals, at Godhra, in Land Reference Cases Nos. 56 of 1987 to 70 of 1987, 62 of 1988 and 63 of 1988. Appellants-original claimants have filed First Appeals Nos.6560 of 1998 to 6576 of 1998 against the same common judgment and award dated April 30, 1998, rendered by the learned Joint District Judge, Panchmahals, at Godhra, in Land Reference Cases Nos. 56 of 1987 to 70 of 1987; 62 of 1988 and 63 of 1988, for enhancement of compensation.

2. First Appeals Nos. 1268 of 1999 to 1284 of 1999 are filed by the the Special Land Acquisition Officer, Unit No.1, Narmada Project, under Section 54 of the Act, read with Section 96 of the Code of Civil Procedure, 1908, challenging common judgment and award dated April 30, 1998, rendered by the learned Joint District Judge, Panchmahals, at Godhra, in Land Reference Cases Nos. 106 of 1988 and 139 of 1988 to 154 of 1988 . Appellants-original claimants have filed First Appeals Nos.6541 of 1998 to 6546 of 1998 against the same common judgment and award dated April 30, 1998, rendered by the learned Joint District Judge, Panchmahals, at Godhra, in Land Reference Cases Nos. 106 of 1988 and 139 of 1988 to 154 of 1988 for enhancement of compensation.

3. First Appeals Nos. 1059 of 1999 to 1068 of 1-----

Unit No.1, Narmada Project, under Section 54 of the Act, read with Section 96 of the Code of Civil Procedure, 1908, challenging common judgment and award dated April 30, 1998, rendered by the learned Joint District Judge, Panchmahals, at Godhra, in Land Reference Cases Nos. 129 of 1988 to 138 of 1988. A comprehensive statement showing the details of first appeals filed by the State and the original claimants, land acquisition references, award of the Land Acquisition Officer and the award of the Reference Court, is as under:

Sr.	F.A.Nos.	F.A.Nos.	LAR No.s	Claimant's
No.	filed	filed	name	
	by	by		
			State	Claimants

1 2 3 4 5

-----1.

151/99 6571/98 67/87 Naranbhai

Maganbhai

2. 152/99 6560/98 56/87 Heirs of

deceased

Vitthalbhai

Govindbhai

3. 153/99 6561/98 57/87 Heirs of

deceased

Naginbhai

Jhaverbhai

4. 154/99 6562/98 58/87 Vinodbhai

Hirabhai

Patel

5. 155/99 6563/98 59/87 Mahendrabhai

V. Patel

6. 156/99 6564/98 60/87 Ishwarbhai

R. Patel

7. 157/99 6565/98 61/87 Yashwantbhai

N. Patel

8. 158/99 6566/98 62/87 Ashwinbhai

V. Patel

9. 159/99 6567/98 63/87 Ramanbhai

H. Patel

10. 160/99 6568/98 64/87 Ghanshyambhai

B. Patel

11. 161/99 6569/98 65/87 Somabhai

M. Patel

12. 162/99 6570/98 66/87 Heirs of

deceased

Chitalbhai

- M. Patel
13. 163/99 6572/98 68/87 Vipinchandra
D. Patel
14. 164/99 6573/98 69/87 Muljibhai
G. Patel
15. 165/99 6574/98 70/87 Chandra-
kantbhai
H. Patel
16. 166/99 6575/98 62/88 Rajubhai
C.Patel
17. 167/99 6576/98 63/87 Rajubhai
C.Patel
18. 1268/99 6541/98 106/88 Kailashben
N. Patel
19. 1269/99 6542/98 139/88 Vinodbhai
H. Patel
20. 1270/99 6543/98 140/88 Ambalal
R. Patel
21. 1271/99 6548/98 141/88 Ramanbhai
N.Patel
22. 1272/99 6556/98 142/88 Heirs of
deceased
Haribhai
Patel
23. 1273/99 6557/98 143/88 Ambalal
Bechardas
24. 1274/99 6551/98 144/88 Manibhai
Ravjibhai
25. 1275/99 6550/98 145/88 Heirs of
deceased
Naginbhai
Mathurbhai
26. 1276/99 6544/98 146/88 Ramdas
Jhaverbhai
27. 1277/99 6545/98 147/88 Pratimaben
Mohanbhai
28. 1278/99 6547/98 148/88 Somabhai
M. Patel
29. 1279/99 6549/98 149/88 Shambhubhai
Nagarbhai
30. 1280/99 6554/98 150/88 Devjibhai
Govindbhai
31. 1281/99 6555/98 151/88 Desaibhai
Kabhaibhai
32. 1282/99 6552/98 152/88 Bhikhubhai
Ambalal
33. 1283/99 6553/98 153/88 Manubhai
Ambalal
34. 1284/99 6546/98 154/88 Heirs of

- deceased
Chunibhai
Maganbhai
Patel
35. 1059/99 137/88 Natwarsinh
Bharatsinh
36. 1060/99 129/88 Mansinh
Vejesinh
Thakore
heir of
Vajesinh
Thakore
37. 1061/99 130/88 Himmatsinh
Raisinh
38. 1062/99 131/88 Ajitsinh
Pratapsinh
39. 1063/99 132/88 Gajendrasinh
Jawaharsinh

- G. Gohil
41. 1065/99 134/88 Rajendrasinh
Kishoresinh
42. 1066/99 135/88 Ajitsinh
Dolatsinh
43. 1067/99 136/88 Kiritsinh
Bharatsinh
44. 1068/99 137/88 Balwantsinh
Karansinh

As common question of facts and law arise for our consideration, we propose to dispose of all these appeals by this common order.

3. Agricultural lands of village Bakrol, Taluka Halol, District Panchamahals, were needed for the public purpose, namely, for construction of Narmada Main Canal. Agricultural lands of village Bakrol, which are subject matter of First Appeals Nos. 151 of 1999 to 167 of 1999 and First Appeals Nos. 6560 of 1998 to 6576 of 1998, came to be acquired by notification issued under Section 4(1) of the Act which was published in the government gazette on August 30, 1984. After following procedure prescribed under the Act, notification under Section 6 of the Act came to be published in the government gazette on May 17, 1985. The persons interested-owners of the agricultural lands of village Bakrol were served with notices under

Section 9(3)(4) of the Act. The claimants of the acquired lands lodged their claim before the Land Acquisition Officer claiming compensation of the acquired lands at Rs.1 lakh per Hectare which is equivalent to Rs.10/- per sq.mtr. The Land Acquisition Officer, on the basis of materials placed before him, made his award on September 15, 1987, and offered compensation of the acquired lands ranging from Rs.1.00 to Rs.1.60 ps per sq.mtr. The claimants were of the opinion that, looking to the fertility, situation and development of the acquired lands, compensation offered by the Land Acquisition Officer was inadequate and, therefore, they filed written applications under Section 18 of the Act requiring the Land Acquisition Officer to refer the applications to the District Court for determination of the market value of the acquired lands. The said applications were referred by the Land Acquisition Officer to the District Court which came to be numbered as Land Acquisition Cases Nos.106/88, 139/88 to 154/88. The claimants, to substantiate their claim at the rate of Rs.10/- per sq.mtr for the acquired lands, examined (1)Yashwantbhai Nanubhai Patel (Exh.83), (2) Mukeshbhai Balkrishna Bhatt (Exh.85), (3) Devalben Hemantbhai (Exh.90), (4) Narendrasinh Chandrasinh (Exh.92) and (5) Dahyabhai Bechardas Dalal (Exh.101). The claimants produced documentary evidence such as sale transactions at Exh.54, 48, 52, 50, and 51, previous award of the Reference Court of the acquired lands of village Kanjari at Exh.42, wherein compensation was determined at Rs.13/per sq.mtr which was reduced by the High Court in appeal at the rate of Rs.11/- per sq.mtr. The claimants also produced copy of judgment and award of the Reference Court with respect to the lands of village Derol at Exh.41, wherein, the market price was determined at the rate of Rs.9/- per sq.mtr. which was reduced by the High Court at the rate of Rs.7/- per sq.mtr. by judgment and order at Exh.44. The appeal was dismissed by the Supreme Court and certified copy of the order of the Supreme Court was produced at Exh.46. The claimants also produced copy of the judgment and award of the Reference Court in respect of the lands of village Ramesara at Exh.43. wherein the market price was determined at the rate of Rs.10/- per sq.mtr by the Reference Court, which was reduced by the High Court at the rate of Rs.8/- per sq.mtr. by judgment and order at Exh.44. The appeal was dismissed by the Supreme Court and certified copy of the order of the Supreme Court was produced at Exh.45.

4. Similarly, the agricultural lands of village Bakrol, which are subject matter of First Appeals Nos. 1268 of 1999 to 1284 of 1999 and 6541 of 1998 to 6557 of

1998 came to be acquired by notification issued under Section 4(1) of the Act which was published in the government gazette on August 30, 1984. After following procedure prescribed under the Act, notification under Section 6 of the Act came to be published in the government gazette on May 17, 1985. The persons interested-owners of the agricultural lands of village Bakrol were served with notices under Section 9(3)(4) of the Act. The claimants of the acquired lands lodged their claim before the Land Acquisition Officer claiming compensation of the acquired lands at Rs.1 lakh per Hectare which is equivalent to Rs.10/- per sq.mtr. The Land Acquisition Officer, on the basis of materials placed before him, made his award on September 15, 1987, and offered compensation of the acquired lands ranging from Rs.1.00 to Rs.1.60 ps per sq.mtr. The claimants were of the opinion that, looking to the fertility, situation and development of the acquired lands, compensation offered by the Land Acquisition Officer was inadequate and, therefore, they filed written applications under Section 18 of the Act requiring the Land Acquisition Officer to refer the applications to the District Court for determination of the market value of the acquired lands. The said applications were referred by the Land Acquisition Officer to the District Court which came to be numbered as Land Acquisition Cases Nos. 106 of 1988 and 139 of 1988 to 154 of 1988. The claimants, to substantiate their claim at the rate of Rs.10/- per sq.mtr for the acquired lands, examined (1) Shambhubhai Maganbhai Patel (Exh.17), (2) Devalben Hemantbhai (Exh.47), (3) Mukeshkumar Balkrishna (Exh.49) and (4) Narendrasinh Chandrasinh (Exh.53. The claimants produced documentary evidence such as sale transactions at Exh.48, 50, 51, 52 and 54, previous award of the Reference Court of the acquired lands of village Kanjari at Exh.42, wherein compensation was determined at Rs.13/per sq.mtr which was reduced by the High Court in appeal at the rate of Rs.11/- per sq.mtr. The claimants also produced copy of judgment and award of the Reference Court with respect to the lands of village Derol at Exh.41, wherein, the market price was determined at the rate of Rs.9/- per sq.mtr. which was reduced by the High Court at the rate of Rs.7/- per sq.mtr. by judgment and order at Exh.44. The appeal was dismissed by the Supreme Court and certified copies of the orders of the Supreme Court were produced at Exh.45 and 46. The claimants also produced copy of the judgment and award of the Reference Court in respect of the lands of village Ramesara at Exh.43 wherein the market price was determined at the rate of Rs.10/- per sq.mtr by the Reference Court, which was reduced by the High Court at the rate of Rs.8/- per

sq.mtr. by judgment and order at mark 13/2. The appeal was dismissed by the Supreme Court and certified copy of the order of the Supreme Court was produced at Exh. 45 and 46.

5. Similarly, the agricultural lands of village Bakrol, which are subject matter of First Appeals Nos. 1059 of 1999 to 1068 of 1999 came to be acquired by notification issued under Section 4(1) of the Act which was published in the government gazette on June 3, 1985. 1985. After following procedure prescribed under the Act, notification under Section 6 of the Act came to be published in the government gazette on November 7, 1985. The persons interested-owners of the agricultural lands of village Bakrol were served with notices under Section 9(3)(4) of the Act. The claimants of the acquired lands lodged their claim before the Land Acquisition Officer claiming compensation of the acquired lands at Rs.1 lakh per Hectare which is equivalent to Rs.10/- per sq.mtr. The Land Acquisition Officer, on the basis of materials placed before him, made his award on October 14, 1987, and offered compensation of the acquired lands ranging from Rs.1.00 to Rs.1.60 ps per sq.mtr. The claimants were of the opinion that, looking to the fertility, situation and development of the acquired lands, compensation offered by the Land Acquisition Officer was inadequate and, therefore, they filed written applications under Section 18 of the Act requiring the Land Acquisition Officer to refer the applications to the District Court for determination of the market value of the acquired lands. The said applications were referred by the Land Acquisition Officer to the District Court which came to be numbered as Land Acquisition Cases Nos. 129 of 1988 to 138 of 1988. The claimants, to substantiate their claim at the rate of Rs.10/- per sq.mtr for the acquired lands, examined (1) Balwantsinh Karansinh (Exh.17), Deullaben Marutbhai (Exh.40), (3) Mukeshkumar Balkrishna (Exh.42) and (4) Narendrasinh Chandrasinh (Exh.46). The claimants produced documentary evidence such as sale transactions at Exh. 51,48, 50, 51, 52 and 54. The claimants also produced copy of previous award of Reference Court, copies of judgments of High Court and Supreme Court with respect to acquired lands of adjoining villages Derol, Kanjari and Rameshara of which reference is already made in the earlier paragraphs of this judgment.

6. The Reference Court rejected sale transaction produced by the claimants with regard to surrounding

agricultural lands of village Bakrol by observing that the sale transactions produced were with regard to non-agricultural lands whereas the present acquired lands were agricultural lands. The Reference Court rejected earlier awards of the acquired lands of villages Kanjari, Rameshara, Derol, on the ground that the claimants had not produced evidence to the effect that acquired lands of the above villages were identical in all respects and possessed similar advantages as that of acquired lands of the above villages. The Reference Court, for the purpose of the determination of market value of acquired agricultural lands of village Bakrol, resorted to 'yield method'. The Reference Court, relying upon the evidence of the claimants with regard to agricultural income of the acquired lands, had determined market value of the acquired lands at the rate of Rs.7/- per sq.mtr. The claimants have filed appeals for enhancement of compensation at the rate of Rs.10/- per sq.mtr. The State of Gujarat has challenged the judgment and award of the Reference Court determining market value of acquired lands at the rate of Rs.7/- per sq.mtr on the ground that compensation awarded by the Reference Court is excessive and, looking to the situation and fertility of acquired lands, the claimants were not entitled to compensation of the acquired lands of village Bakrol at the rate of Rs.7/- per sq.mtr.

7. Learned counsel for the claimants submitted that, as per the settled legal principle, earlier awards of acquired lands of nearby villages were relevant for the purpose of determination of compensation of the present acquired lands, and the Reference Court had erred in not placing reliance on earlier award which had become final because the determination of market value was confirmed by the High Court and the Supreme Court. It is contended by learned counsel for the claimants that village Kanjari, Bakrol, Rameshara were situated in the near vicinity of the acquired lands and, therefore, compensation of the acquired lands claimed by the claimants at the rate of Rs.10/- per sq.mtr. was most reasonable. It is contended by learned counsel for the claimants that the situation, fertility and potential of the agricultural lands of village Bakrol were in all respects comparable to the acquired lands of the surrounding villages. It was further contended that the witnesses examined by the claimants had deposed about the fertility and situation of the acquired lands which indicated that the present acquired lands were having same fertility as compared with other acquired lands of the surrounding villages. Learned counsel for the claimants urged that, when the evidence in the nature of

sale transaction and earlier awards was available before the Reference Court, the Reference Court seriously erred in not accepting the said evidence and resorted to 'yield method' which was not permissible in view of the decision of the Supreme Court in the case of Special Land Acquisition Officer vs. V.P. Veerabhadarappa, reported in AIR 1984 Supreme Court 774. It is urged that 'yield method' can only be resorted to for determination of market value of acquired lands if no other evidence was available before the Court. Learned counsel for the claimants therefore urged that compensation claimed by the claimants at the rate of Rs.10/- per sq.mtr. was most reasonable looking to the fertility, situation and development which had taken place surrounding the acquired lands and, therefore, the appeals filed by the claimants be allowed.

8. Mr. A.D. Oza, learned Government Pleader, assisted by Mr.S.S. Patel, submitted that previous awards of the Reference Court rendered in respect of agricultural lands of surrounding villages in question are neither comparable nor relevant for the purpose of determining market value of the lands acquired in the present appeals. It was claimed that though no cogent evidence was led by the claimants with regard to agricultural income, yet the Reference Court had awarded Rs.7/- per sq.mtr as compensation of the acquired lands by resorting to guess work and conjectures which was not permissible. Learned counsel for the Government submitted that the market value determined for acquired agricultural lands of village Bakrol at the rate of Rs.7/- per sq.mtr was excessive and unreasonable and, therefore, appeals filed by the Special Land Acquisition Officer, be allowed.

9 We have heard learned counsel for the parties at length. We have also taken into consideration relevant documents as well as oral evidence produced by learned counsel for the parties for our perusal and the record and proceedings of the Reference Court at the time of hearing of this group of appeals.

10. Oral evidence of witnesses of the claimants, who were examined before the Reference Court, indicates that village Bakrol was connected by road with other villages and towns of Panchmahals and Vadodara districts. Mumbai-Delhi broad-gauge railway line is at a distance of 1 km from the acquired lands. The evidence of witnesses also shows that many industrial activities had taken place surrounding acquired lands. Witness Baghubhai

Maganbhai, Exh.17, deposed that about 400 to 500 factories were established surrounding the acquired lands of village Bakrol. Village Bakrol was having facilities of telephone, hospitals, schools, milk producers' federation, cooperative societies, etc. It was also proved by the claimants that the agricultural lands were having facilities of irrigation through wells and pipelines. The witness deposed that agricultural lands of village Kanjari were adjoining to the acquired lands of village Bakrol and, according to the witnesses, the said acquired lands of village Kanjari were having same fertility and similar agricultural crops were raised on both the acquired lands. The witness further deposed that the acquired lands of village Derol were at a distance of 1.1/2 kms from the present acquired lands. The Reference Court had determined market value of agricultural lands of village Derol at the rate of Rs.9/per q.mtr. The witness deposed that the High Court in appeal had reduced price of acquired lands of village Derol from Rs.9/- to Rs.7/- per sq.mtr. The witness asserted that the State Government had preferred appeal in the Supreme Court which was dismissed, and determination of market value of agricultural lands of village Derol was confirmed. In cross examination, the witness admitted that village Kanjari was at a distance of 2 to 3 kms from village Bakrol. Witness, Ambalal, Exh.17, deposed that he was having agricultural lands at both the villages - Kanjari and Bakrol. The witness deposed that fertility and agricultural income of lands of villages Kanjari and Bakrol was similar and the agriculturists raised same crops on the lands of both the villages.

11. Claimant of Land Reference Case No.61 of 1987, Yashwantbhai Nanubhai Patel, Exh.83, deposed that all the acquired lands of village Bakrol were having irrigation facilities. He also deposed that State Highway and National Highway were passing near the acquired lands and, therefore, the acquired lands were having all the transportation facilities. The witness claimed that the acquired agricultural lands of villages Kanjari, Derol and Rameshara were having same fertility as compared to agricultural lands of village Bakrol.

12. In our opinion, the claimants had led sufficient evidence to prove that the present acquired lands are in all respects comparable and identical to the acquired agricultural lands of adjoining villages Kanjari, Derol, and Rameshara. In our view, the previous awards determining market value of the acquired lands of the abovereferred three villages were most comparable and

relevant for the purpose of determination of market value of the present acquired lands of village Bakrol.

13. The Supreme Court in Special Land Aquisition Officer, Devangere vs. P.Veerabhadarappa, AIR 1984 Supreme Court 774, held as under:

"The function of the Court in awarding compensation under the Act is to ascertain the market value of the land at the date of the notification under Section 4(1) and the methods of valuation may be : (1) Opinion of experts: (2) The prices paid within a reasonable time in bona fide transactions of purchase or sale of the lands acquired or of the lands adjacent to those acquired and possessing similar advantages; and (3) A number of years' purchase of the actual or immediately prospective profits of the lands acquired. Normally, the method of capitalising the actual or immediately prospective profits or the rent of a number of years' purchase should not be resorted to if there is evidence of comparable sales or other evidence for computation of the market value. It can be resorted to only when no other method is available."

Before the Reference Court, the claimants had produced sale deed in respect of lands of vilalge Bakrol which was duly proved by the evidence of vendor and vendee. Even if the sale deeds on which reliance was placed by the claimants for determination of market value of the present acquired lands, were not relevant, even then, there was other evidence available on record before the Reference Court in the nature of earlier awards, which could have been relied on by the Reference Court. In our opinion, in view of the principle laid down in the case of P.Veerabhadarappa (supra), when there was sufficient evidence of the nature of sale transaction and previous awards available, the Reference Court had erred in resorting to 'yield method' for the determination of market value of the acquired lands. Determination of market value of acquired lands by the Reference Court by resorting to 'yield method' is erroneous. The Reference Court, by relying upon the evidence of claimant, Jastwantbhai Nanubhai Patel, had observed that, as per his evidence, agriculturists of the acquired lands were earning Rs.14,000/- per year from one acre of land. However, as the witness had not produced any account books for income and expenditure of his agricultural land, the Reference Court arrived at figure of Rs.2832/as net income per one acre of the acquired lands without there being any base. The Reference Court had not arrived at any gross figure of agricultural income derived from acquired lands. We failed to understand how the Reference Court arrived at the figure of Rs.2832/- as net income per one acre of acquired agricultural lands. We are of the opinion that determination of market value

based on 'yield method' is grossly erroneous and is arrived at without any basis or data produced either by the claimants or the Acquiring Body or the Land Acquisition Officer. The Supreme Court, in *Special Land Acquisition Officer vs. V.P. Veerabhadarappa (supra)*, has cautioned the Courts not to resort to 'yeild method' as far as possible, unless there is no evidence before the Court. The Supreme Court ruled as under:

"In regard to investment in agricultural lands, there are many imponderables inasmuch as, as the investor runs, a much greater risk than the risk that he runs in investment in housing which consists in vagaries of weather and other uncertainties. There is no security of principal, no liquidity of investment nor any certainty of income. The appreciation of principal or income is also uncertain."

Therefore we are of the opinion that ascertainment of market value by the Reference Court by taking resort to 'yield method' is erroneous, because there was other evidence available in the nature of earlier awards and sale transaction produced by the claimants.

14. The claimants of present acquired lands of village Bakrol had led sufficient evidence with regard to fertility of agricultural lands and their situation in comparison to acquired lands of villages Kanjari, Rameshara, Derol. Village Bakrol was having facilities of school, hospital, transport, telephone, post-office and electricity. Acquired lands were surrounded by the factories established on the lands of Gujarat Industrial Development Corporation. Broad-gauge railway line of Bombay-Delhi was passing at a distance of 1 km from acquired lands. State Highway of Halol-Godhra was situated at a distance of 1.1/2 kms from present acquired lands. Tar road of Kanjari-Halol was passing at a distance of 1 km from acquired lands. Agricultural lands of village Bakrol was having facility of irrigation and agriculturists used to take water which was supplied by tubewells. Claimants' witness, Shambubhai Maganbhai Patel, claimant of L.A.R. No.149 of 1988, deposed that acquired agricultural lands of village Kanjari were situated adjoining to village Bakrol and lands of both the villages were having same fertility and the crop pattern of both the agricultural lands was also similar. The present lands came to be acquired by notification issued under Section 4(1) of the Act on August 30, 1994 whereas agricultural lands of village Kanjari were acquired by notification under Section 4(1) of the Act on July 13, 1984. Market value of acquired lands of village Kanjari was determined by the Reference Court at the rate

of Rs.13 per sq.mtr, which was reduced by the High Court to Rs.11/- per sq.mtr. The witness further deposed that village Derol was situated at a distance of 1.1/2 km from acquired lands. He has stated that lands of village Derol were also acquired for the same public purpose, wherein, the High Court had determined market value of acquired lands at Rs.7 per sq.mtr which was challenged in the Supreme Court and the Supreme Court had confirmed market value determined at the rate of Rs.7 per sq.mtr of acquired lands of village Derol. The witness also demonstrated before the Court that agricultural lands of village Rameshara were also acquired for the same public purpose, wherein the High Court had determined market value of acquired lands at Rs.8 per sq.mtr which was challenged in the Supreme Court and the Supreme Court had confirmed market value determined at the rate of Rs.8 per sq.mtr of acquired lands of village Rameshara. However, the witness volunteered that lands of village Rameshara were situated at a distance of 2.1/2 to 3 kms from acquired lands. In cross examination, the witness admitted that distance between villages Kanjari and Bakrol was 2.34 kms. However, the witness deposed that he owned agricultural lands in both villages, Kanjari and Bakrol.

15. The map produced on record of the Reference Court shows that village Kanjari was nearer to Halol where more industries were established. Lands of village Kanjari were acquired by notification under Section 4(1) of the Act on July 1, 1984 and market value of those lands as on July 1, 1984 was determined at Rs.10 per sq.mtr. Village Derol was situated towards eastern side of village Bakrol which shows that in the said village no development has taken place as compared to village Kanjari. Looking to the development factor in village Derol, market price of acquired lands of village Derol as on October 2, 1986 was determined at Rs.7 per sq.mtr. Previous award of village Derol Exh.41 indicates that, near acquired lands of the said village, 50 to 60 factories were established by GIDC, whereas, according to deposition of witness, Yashwantbhai Nanubhai Patel, claimant of L.A.R. no.61 of 1987, Exh.83, in GIDC Estate at Halol, 200 factories have been established, which is situated at distance of 1.1/2 kms from the present acquired lands. The evidence of this witness with regard to development which had taken place near acquired lands was not challenged during his cross examination.

16. Oral evidence of the claimants and documentary evidence in the nature of maps show that village Bakrol was nearer to Halol where more industrial development had

taken place due to establishment of industrial estate of GIDC. Village Kanjari was nearer to Halol and, therefore, obviously, market value of acquired lands of village Kanjari was determined at the rate of Rs.11/- per sq.mtr as on July 1, 1984. Keeping in view distance between village Bakrol and village Kanjari, in our opinion, market value of present acquired lands can be determined at the rate of Rs.8 per sq.mtr. While determining market value of acquired land of village Bakrol, we have taken into consideration development which has taken place in the surrounding villages of Kanjari, Derol, Rameshara, etc. and distance between the said villages and the present acquired lands. Due to various acquisitions, which had taken place for public purposes of establishment of GIDC and Narmada Canal Project, there was heavy pressure on the lands of villages Kanjari, Bakrol, Rameshara, Derol, etc. Therefore, we have taken into consideration all the relevant factors such as industrial development which had taken place in the surrounding villages and heavy pressure on the acquired lands and the facilities which were available in village Bakrol in determining market value of present acquired lands. Therefore, taking into consideration all the relevant aspects, we are of the opinion that the market value of the present acquired lands of Bakrol should be determined at Rs.8/- per sq.mtr. as on August 30, 1984.

17. We have not taken into consideration previous award of village Rameshara, which was at distance of more than 3 kms from village Bakrol, for the purpose of determination of market price of acquired lands in the present case. Map indicates that acquired lands of village Bakrol were situated in between village Derol and village Kanjari. Taking into consideration the situation of village Bakrol, the development which had taken place in surrounding villages of Bakrol, and the fertility of acquired lands, in our opinion, it would be just and reasonable to determine market value of acquired lands of village Bakrol as on August 30, 1984 at the rate of Rs.8/- per sq.mtr.

18. The Reference Court had awarded additional compensation at the rate of Rs.6/- per sq.mtr. over and above compensation offered by the Land Acquisition Officer. The Land Acquisition Officer had offered Rs.1 per sq.mtr as compensation for acquired lands of village Bakrol. Therefore, market value of present acquired lands was determined by the Reference Court at the rate of Rs.7/- per sq.mtr which is enhanced by this judgment

by Rs.1/- per sq.mtr. In all, the claimants are entitled to get compensation of acquired lands of village Bakrol at the rate of Rs.8/- per sq.mtr [Rs.1 per sq.mtr offered by the Land Acquisition Officer, plus Rs.6/- per sq.mtr enhanced by the Reference Court, plus Rs.1/- per sq.mtr further enhanced by this Court]. The claimants are also entitled to amount calculated at the rate of 12% per annum on the additional amount of compensation under Section 23(1-A) of the Act. The claimants are also entitled to solatium at 30% on the additional amount of compensation as well as interest as per Section 28 of the Act at the rate of 9% for the first year and 15% per annum thereafter. However, it is clarified that the claimants would not be entitled to interest on the amount of solatium as well as solatium on the amount awarded under Section 23(1-A) of the Act in view of the decision of the Supreme Court in the case of State of Maharashtra vs. Maharau Srawan Hatkar, reported in Judgment Today 1995 (2) S.C. 583.

19. As a result of foregoing reasons, First Appeals filed by the Special Land Acquisition Officer being First Appeals Nos.151 of 1999 to 167 of 1999, 1268 of 1999 to 1284 of 1999, and 1059 of 1999 to 1068 of 1999 are dismissed. First Appeals filed by the claimants being First Appeals Nos.6541 of 1998 to 6557 of 1998 and 6560 of 1998 to 6576 of 1998 are partly allowed. It is held that the market value of the acquired lands of village Bakrol on the relevant date was Rs.8 per sq.mtr. The common judgment and award dated April 30, 1998, rendered by learned Joint District Judge, Panchmahals, at Godhra, in Land Reference Cases Nos.56 of 1987 to 70 of 1987, Land Reference Case No. 62 of 1988 and Land Reference Case No.63 of 1988 is modified to the aforesaid extent. The claimants would be entitled to all the statutory benefits under Sections 23(2) and 23(1-A) and interest under Section 28 of the Act. It is clarified that the claimants would not be entitled to interest on the amount of solatium payable under Section 23(2) as well as solatium on the amount under Section 23(1-A) of the Act. The Office is directed to draw decree in terms of this judgment. There shall be no order as to costs.

20. After pronouncement of the judgment, learned counsel for the claimants, Mr. B.S. Patel, has submitted that the lands of the claimants were acquired in the year 1994. Till today, the respondents have not deposited the amount awarded by the Reference Court. Learned counsel for the claimants, therefore, has submitted that suitable direction be issued to the respondents to deposit awarded amount of compensation for the acquired lands within reasonable time.

21. It is true that the claimants had lost their agricultural lands in the year 1984 and till today they have not been paid compensation. We, therefore, direct that the respondents -State of Gujarat and Land Acquisition Officer, shall deposit, if not deposited/paid, the awarded amount of compensation in the Reference Court within the period of four months from today.

April 20, 2000 (M.H. Kadri, J.)(D.P.Buch,J.)
(swamy)